

REGULATIONS

45 CFR 302.70(a)(6)
45 CFR 303.104

STATE LAWS

MCL 552.16
MCL 552.519(3)(j)
MCL 552.625
MCL 772.719, 722.721

States are required by Federal regulation to have and use statutorily based procedures which require that payers post bonds or give security or other guarantee to secure payment of overdue support. States must have guidelines for use in determining whether a case is inappropriate for application of those procedures. The guidelines must be available to the general public.

Payers must be provided with advance notice of action to require posting of a bond, security or other payment guarantee. The notice must inform the payer of his/her right, and method available, to contest the proposed action.

State statutory provisions concerning the use of bonds, securities and other guarantees in support cases are contained in the Support and Visitation Enforcement Act, divorce laws and the Paternity Act. The State Court Administrative Office (SCAO) is required by the Friend of the Court Act to establish guidelines to assist Friends in determining whether it is appropriate to require a bond, security or other guarantee in individual cases.

This chapter provides general state IV-D policies concerning the use of payment guarantees. Local IV-D procedural guides are to specify the type of payment guarantees used within the jurisdiction and actions necessary to utilize those remedies. Procedures for implementation of a cash bond are contained in the "Michigan Bond and Lien Guideline" published by the SCAO.

**TYPES OF
PAYMENT
GUARANTEES**

Guarantees for the payment of support include such items as cash bonds, escrow accounts, impounded assets, trusts, blocked accounts, court appointed receivers, and bonds underwritten by surety and bonding companies.

Regulations permit flexibility in the selection of the type of payment guarantee utilized and recognize that selections may vary based on case circumstances.

EXCLUDED CASES

Requiring a payment guarantee is **inappropriate** in cases in which the payer's past performance shows he/she can be relied upon to keep support payments current. A payer is considered reliable if there is no

arrearage or the arrearage is less than \$1,000 or an amount equal to the support obligation for 26 weeks, whichever is lower.

REQUIRING AND ENFORCING PAYMENT GUARANTEES

The Friend of the Court is to petition the court to require a payer to post a bond or give security or other guarantee to secure payment of overdue and/or future support in appropriate cases. Requiring a payment guarantee is appropriate in cases in which either:

- The payment history indicates an arrearage existed of \$1,000 or an amount equal to the support obligation for 26 weeks, whichever is lower; or
- the payer has a history of non-payment and has threatened to leave Michigan or to sell assets to avoid payment of future support.

The payer must be provided with notice of action to require a payment guarantee and an opportunity for a hearing to contest that action. In response to the petition, the court may require the payer to provide a guarantee to insure payment of support.

Upon default in payments and dependent upon the type of guarantee, the court may, after notice and an opportunity for a hearing:

- Order forfeiture of a cash bond and application of the money to the support account;
- Render judgment against the payer and sureties for the amount of support secured by the bond;
- Order execution of the judgment;
- Appoint a receiver of the real and personal property of the payer and order the property and its income applied to the amount of the judgment; or
- Take any other appropriate action to enforce the judgment.

PUBLIC INFORMATION

Manual material published by FIA is public information. Members of the general public may obtain a copy of this MFOC chapter by submitting a written request to:

Office of Child Support
Michigan Family Independence Agency
P.O. Box 30037
Lansing, MI 48909